

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
ROCHESTER, NEW YORK 14614-1363

CHARLES J. SIRAGUSA
DISTRICT COURT JUDGE

585-613-4050
FAX-613-4055

March 25, 2015

Carlos Abreu 99-A-3027
Wende Correctional Facility
Post Office Box 1187
Alden, NY 14004-1187

RE: *Abreu v. Brown, et al.*
14-CV-6599-CJS

Dear Mr. Abreu:

I am forwarding a letter from Assistant Attorney General Hillel Deutsch dated March 20, 2015, sent in response to my correspondence dated March 17, 2015. In his letter, Mr. Deutsch states he spoke with officials at Wende Correctional Facility about your medical care and was informed that you have not suffered the injuries you claimed in your letter of March 8, 2015. He also states that you are seen regularly by medical staff, and the only restriction is that you must wear a coverall suit "due to [your] repeated practice of exposing [yourself] to nursing staff."

In view of Mr. Deutsch's response, it would appear that a hearing is necessary to ascertain which version of events is true. I will schedule a video conference. However, I note that you filed a notice of appeal on March 5, 2015. Ordinarily, filing a notice of appeal "confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). Because the subject of your appeal, denial of *in forma pauperis* status based upon your failure to provide specific information to the Court, is, in my consideration, frivolous, I will continue to exercise jurisdiction over this case, especially with regard to the conditions of confinement. *See United States v. Salerno*, 868 F.2d 524, 539 (2d Cir. 1989) ("Numerous circuit courts have ruled that a district court may retain jurisdiction to proceed with a trial, despite the pendency of a defendant's interlocutory double jeopardy appeal, where the appeal is found to be frivolous."). Accordingly, once the conference is scheduled, I will file a separate order directing that you be permitted to appear via video conference.

Very truly yours,

/s/ Charles J. Siragusa

Charles J. Siragusa
United States District Judge

CJS/kap
Enclosure
cc: Hillel Deutsch, A.A.G.